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d/b/a/ Indy Men's Magazine

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
GEORGE EDWARD McCAIN, an individual, :

Plaintiff, :

vs. :

RAHAL LETTERMAN RACING, LLC, an Ohio :
limited liability co, *et al.* :

Defendants. :

----- X

Index No.: 07-CV-5729

**NOTICE OF JOINDER IN MOTION
TO TRANSFER CASE**

TO ALL PARTIES AND TO THEIR RESPECTIVE ATTORNEYS OF RECORD

HEREIN:

PLEASE TAKE NOTICE that on Friday, August 17, 2007, or as soon thereafter as the matter may be heard in Courtroom 14-B of the above-entitled Court, located at 500 Pearl Street, New York, New York, defendant Table Moose Media, LLC, an Indiana limited liability company d/b/a Indy Men's Magazine ("TMM"), shall and hereby moves the Court for an Order transferring this copyright infringement action to the United States District Court for the Central District of California pursuant to 28 U.S.C. Section 1404(a).

This Motion joins and adopts the arguments made in support of the Motion to Transfer Case filed by defendants Rahal Letterman Racing, LLC, and Bobby Rahal Automotive Group

(collectively “Rahal”), as set forth in their Memorandum of Points and Authorities and supporting evidentiary materials. In further support of its Motion, TMM states as follows:

TMM is accused of publishing certain photographs of Danica Patrick in violation of a copyright held by plaintiff George Edward McCain (“McCain”). TMM denies the allegations, but to the extent the allegations have merit, TMM used the allegedly copyrighted photographs with permission from one or more of the plaintiffs in Argent Mortgage Company, LLC, et al. v. Edward McCain, Case No. SACV 06-749 CJC (RNBx) (the “California Proceeding”), as McCain’s complaint in this action recognizes. Accordingly, if a copyright violation is established, TMM will seek indemnification from the parties to the California Proceeding that granted that permission, which may necessitate yet another lawsuit.

As noted in the Memorandum of Points and Authorities filed by Rahal, convenience of the parties and the interests of justice are two relevant factors to the transfer calculus. (See Mem. Part III.C). Because McCain’s copyright claims are already being litigated in the United States District Court for the Central District of California, defendant’s interests and judicial economy will be served if this action is transferred so that the indemnification claims stemming from any alleged copyright violation are adjudicated in the same proceeding. McCain, on the other hand, will not endure any hardship if this case is transferred because he is already litigating the claims in California. Moreover, to the extent some of the copyright and indemnification claims must be litigated here in the Southern District of New York, a different venue than the underlying copyright claims, there is a risk of inconsistent judgments. Thus, the interests of justice and the relative convenience of the parties weigh in favor of transfer.

To facilitate a transfer of this action to the United States District Court for the Central District of California, TMM confirms that if this action is transferred it will not contest personal jurisdiction in the Central District of California.

This Motion is based on this Notice of Motion and the Motion, Memorandum of Points and Authorities and supporting evidentiary materials filed by defendants Rahal Letterman Racing, LLC, and Bobby Rahal Automotive Group, and on such other evidence as may be presented at the hearing of this Motion.

Dated: New York, New York
July 27, 2007

RICHARDS KIBBE & ORBE LLP

By: /s/ H. Rowan Gaither IV (HG-2245)
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